**Questionnaire on “disability-inclusive policies”**

|  |
| --- |
| Submission by Unia (Interfederal Centre for Equal Opportunities), Belgium  *Uniais an interfederal public service, specialised in equal opportunities policy and non-discrimination.*  *Unia is responsible for assisting victims of discrimination based on different protected criteria (one of which is disability) by the anti-discrimination laws which are the transposition of the European directives 2000/43 and 2000/78.*  *Unia is also responsible, as national independent follow up mechanism, for promoting, protecting and monitoring the implementation of the CRPD in Belgium.*  Contact person: Charlotte Dekempeneer, [charlotte.dekempeneer@unia.be](mailto:charlotte.dekempeneer@unia.be) |

1. Please provide information on how your country is considering the rights of persons with disabilities in their **policies aimed at** **implementing and monitoring the Sustainable Development Goals**, including:

* Existing national strategies and action plans,
* Budget allocation for their implementation,
* Existing mechanisms or frameworks to monitor their implementation,
* How do these strategies/plans take into consideration the situation of women and girls with disabilities, and of children and older persons with disabilities?
* How is the participation of persons with disabilities and their representative organizations ensured in the development and implementation of such strategies/plans?

1. Please provide information on the **legislative and policy framework in place in your country concerning non-discrimination**, including:

* Whether “disability” is specifically mentioned as a prohibited ground of discrimination,

Disability is specifically mentioned as a prohibited ground of discrimination in the antidiscrimination legislation of the federal state, the communities[[1]](#footnote-2) and the regions[[2]](#footnote-3).

While the antidiscrimination legislation ensures protection against discrimination in many areas, several weaknesses still exist. For example, the scope of the antidiscrimination legislation does not cover the relations between joint owners. Consequently, joint owners are not obliged to provide reasonable accommodations (e.g. in the common area of a block of flats) if one of the joint owners has a disability.

For further details, please refer to Unia’s assessment report of February 2016 on the federal Anti-Discrimination Law and Anti-Racism Law.[[3]](#footnote-4)

* The existence of any budgetary mechanism to ensure the provision of reasonable accommodation by public entities,

Agencies and services of the communities and the regions provide funding for certain accommodations (aids to employment, workplace adaptations, material aids and work/home transport…).[[4]](#footnote-5) There is not always uniformity between the reference lists used by the different agencies and services.

The agencies and services do not provide funding for the provision of reasonable accommodation by a public entity when the public entity does not meet its quota for the employment of persons with disabilities. These quotas vary at different political levels. The quotas are generally not achieved.

* Whether the denial of provision of reasonable accommodation amounts to discrimination,

Under the antidiscrimination legislation of the federal state, the communities and the regions, the denial of reasonable accommodation amounts to discrimination.

* The existence of any affirmative action measures for persons with disabilities,

Quotas for employing persons with disabilities exist in the major public services in Belgium, both at the federal and regional level. These quotas vary at different political levels. These quotas are generally not achieved.

* The existence of any legal, administrative or other effective remedies available for persons who have been subject of discrimination on the basis of disability (including denial of reasonable accommodation),

The antidiscrimination laws of the various government levels provide that persons who have been subject of discrimination on the basis of disability can bring an action before a civil court. Victims of discrimination can seek a prohibitory injunction ordering the defendant to cease the discrimination. They can also claim (lump sum or real) compensation.

The antidiscrimination laws contain criminal provisions as well. The following acts constitute criminal acts:

* Incitement to hate, discrimination[[5]](#footnote-6) or violence against a person, group, community or the members thereof on the grounds of one of the protected criteria (including disability);
* Failure to comply with a prohibitory injunction; and
* Discrimination[[6]](#footnote-7) by a public official, civil servant or a person exercising public authority.

In addition, aggravating circumstances exist for certain crimes committed against persons with disabilities.

* The establishment of governmental agencies or other similar institutions to guarantee to persons with disabilities equal and effective protection against discrimination.

Persons with disabilities can report discrimination to Unia, the Interfederal Centre for Equal Opportunities. Unia is an independent, interfederal public institution, established by a partnership agreement between the federal government, the regions and the communities. Unia has its headquarters in Brussels and several local contact points across the country.

In many cases Unia's role is essentially a supportive one. Unia informs the complainant or the parties in question about their rights and duties, and tries to reach a constructive, out of court settlement. Within the limits of its tasks, Unia is also competent to go to court. Unia will go to court if an amicable solution does not appear possible, if the case is highly relevant from a social point of view (to establish a legal precedent, for example, or clarify a point of law) or if the facts of the case are particularly serious (such as flagrant hate crime).

1. Please provide information on the **legislative and policy framework in place in your country concerning** **accessibility for persons with disabilities** in relation to the physical environment, transportation, information and communications, and to other facilities and services; including:

* The existence of national standards, guidelines, and regulations on accessibility and universal design, including access to Information and Communication Technologies,

The three regions[[7]](#footnote-8) have regulations in relation to the construction and major renovation of buildings that are open to the public and exceed a certain surface. These requirements only refer to aspects that are visible on construction plans. There is a need to supplement the current texts of regulations so that these take better account of people with sensory or intellectual disabilities and extend their scope, particularly to include information and communication technologies.

A proposal for a law regarding the enhancement of the accessibility of federal government websites is for the moment being investigated.

* The existence of time bound action plans to make public and private facilities and services accessible for persons with disabilities,

No time bound action plans are currently in place to make public and private facilities and services accessible. Yet, many buildings or services such as courts and town halls are still inaccessible in Belgium. These are often older buildings and they are not subject to the planning regulations governing accessibility.

The authorities should encourage diagnostic processes in relation to the accessibility of infrastructures that are public or open to the public, including buildings, access routes, public transport facilities and services, and set an ambitious timetable to ensure that these are eventually made accessible.

* The existence of accessibility requirements for public procurement,

Public procurement must respect the applicable accessibility standards imposed by national and European legislation (e.g. construction and major renovation of buildings that are open to the public, procurement of trains and buses, etc.).

* The existence of any enforcement mechanism of accessibility standards,

For the construction and major renovation of buildings that are open to the public and exceed a certain surface, compliance with the accessibility standards is a condition for issuing a building permit. If the works are not carried out according to the plans for which the building permit was issued, civil or criminal sanctions may be imposed.

In reality, however, checks are rarely carried out on accessibility criteria at the time when projects are delivered, to guarantee full accessibility in new buildings. It is sometimes observed that buildings and areas that are open to the public, whether they are new or renovated, contravene the legislation despite accessibility having been verified at the planning stage.

* The provision of training on accessibility issues for State officials and other actors.

Unia is not currently aware of training programmes for State officials that officially include accessibility. Various associations provide trainings on accessibility which are open to State officials and other actors. However, these initiatives are still few and far between.

The various federated entities have not implemented the Council of Europe Resolution of 2001 on the introduction of universal design principles and training programmes for all professions working in the area of the built environment.

Architecture degree programs include courses on accessibility.

1. Please provide information on the **legislative and policy framework in place in your country concerning support services for persons with disabilities**, including:

* The diversity and coverage of services available (e.g., services for supported decision-making, communication, mobility, personal support, housing and living arrangements, access to general services such as education, employment, justice and health; and other community services):

We provide in this document a general overview of the developments that are taking place in the area of support services for persons with disabilities in Belgium.

In the three regions there are since a long time different services to support people with disabilities in employment, housing, education, living in autonomy, so-called “service d’accompagnement”, “service d’aide à l’intégration”, “service de guidance professionnelle” (few). These services are generally overloaded.

More detailed information can be found in Unia’s recent report to the European Committee of Social Rights on the implementation of article 15 (the right of persons with disabilities to independence, social integration and participation in the life of the community) of the Revised European Social Charter in Belgium.[[8]](#footnote-9)

Flemish Community

The Flemish Agency for Persons with Disabilities (VAPH) offers a range of handicap specific support – ranging from in-home support, day care centres, group-homes to residential care. Some 2800 people receive a cash budget and can employ personal assistants.

In the range of handicap specific support offered by VAPH, once can see a shift to more community based services and a higher flexibility in the way services are offered. With the reform of legislation towards FAM (*flexibel aanbod meerderjarigen*) and MFC (*multifunctioneel centrum minderjarigen*), institutions can more offer more flexible answers to individual support requests.

In the Flemish Community, the financing of handicap-specific care has been subject to a major policy reform with the adoption of the decree on the personalised budget in April 2014.[[9]](#footnote-10) The general goal of this decree is to make the provision of handicap-specific support a more user-oriented system. It foresees a twin-track system of support funding to persons with disabilities. First, all people with a recognised disability and a support need who are not entitled to a personal budget, will gradually have access to a basic support budget, a monthly budget of 300 EUR which they can freely use to pay for directly available services. Second, all adults with greater support needs – minors follow on a later date – will be able to apply for a personal budget, payable under the form of a cash budget or voucher system. This handicap-specific support is attributed following priority rules (whereby the people with a higher support need get a budget sooner than others) and based on a personal support plan (whereby the availability of generally available or family support is assessed).

In Flanders, as well as others regions, long waiting list in order to get handicap-specific support remain.

Walloon Region

The Walloon Government plans a major reform in the way persons with disabilities are supported, by introducing an independence insurance system (*assurance autonomie*), a system where to all Walloons will have to participate. The independence insurance will help persons with disabilities to longer stay at home and pay for a range of in-home services. Health services will organise the system and provide people with several forms of aid and home adaptations.

Brussels Capital Region

In January 2014, the *Commission communautaire française* has adopted a decree[[10]](#footnote-11) to further implement inclusion in different policy areas in Brussels Capital Region, by further developing community based housing, group houses and providing additional family support. A personal assistance scheme is introduced as a pilot project, with a small group of participants. The inclusion decree doesn’t mention the structural introduction of a personal assistance system. Personal assistance is in Brussels Capital Region an experiment with only 8 participants.

German-speaking Community

The specialized agency for persons with disabilities of the German-speaking Community (*Dienststelle für Personen mit Behinderung*) offers a variety of services to support living in society, ranging from in home support to group homes. The concept of personal assistance has not yet been adopted in the German-speaking Community.

In the action plan *DG Inklusiv 2025* the creation of new support forms within society is foreseen. Residential institutions will be replaced by small group homes and in home support.

In general

In general, the means allocated to the services and support allowing people to live independently are largely insufficient. People suffering from a mental or cognitive disability, as well as highly dependent persons with disabilities, sometimes have no choice other than to live in a collective residential unit or to stay with their parents. This option is very often a default solution.

And yet, the residential offering also suffers from a certain shortage , and there are (very) long waiting lists to obtain a place. Available places are allocated, first and foremost, to emergency situations, when a person no longer can depend on someone to support or care for them.

* The availability of certified sign language interpreters,

Availability of interpreters

Both in the Flemish Community and in the French-speaking Community, Flemish sign language and French Belgian sign language have been officially recognised. This does not alter the fact that there is a major shortage of sign language interpreters.

In the French-speaking Community a master's course in sign language has been in place since the academic year 2014-2015. In the Flemish Community, there are both master’s courses and vocational courses for sign language interpretation.

Interpreters that do the same job often have various backgrounds and training. The quality of the interpreting, experience and knowledge can strongly differ from one interpreter to another. There should be a more clear certification and especially a clear profile of which competences a sign language interpreter should have. There is e.g. no clear profile of the interpreters who translate in classrooms.

The shortage of interpreters is also due to the working conditions. In the Flemish Community, sign language interpreters work on a freelance basis. Most of them do not earn enough to make a living out of it so most of them do it as a second job. Most of the interpreters do not have coherent assignments (in one week they can be ask to translate e.g. in a hospital, in a school, in another school and during a job interview).

It would be better to have more professional interpreters. This can be achieved by paying them better and by offering more coherent assignments and more certainty.

Reimbursement

In addition to the shortage of interpreters, another issue is that the number of hours of interpreting that are reimbursed is too limited. In practice this is far from being enough to meet all everyday needs: visits to the doctor, parents' meetings at school, administrative processes, employment, training etc.[[11]](#footnote-12)

Unia recommends that at least all public services provide sign language interpretation for their clients. It is a part of being accessible for everyone and it guarantees that deaf persons can use the hours they are entitled to for essential matters.

A system of Video Remote Interpreting funded at the Federal level is operating in two hospitals. This system could be extended to all federal services.

In Flanders, there is a system of Video Remote Interpreting since 2012 (CAB Vlaanderen). In Brussels and in Wallonia, there is only a pilot project in relation to remote interpreting (Relais Signe) but it is not funded by the Walloon and Brussels authorities.

* The types of service delivery arrangements (e.g. direct provision, public-private partnerships, partnerships with community-based or non-government organizations, contracting out, privatization),

Please refer to the answer above.

* The financial mechanisms to ensure affordability of support services for all, persons with disabilities,

Please refer to the answer above.

* How services enable direct choice and control of users with disabilities?

Please refer to the answer above.

1. Please provide any **other relevant information** (including information from surveys, censuses, and administrative data – statistics, reports, and studies),in relation to the **implementation of existing disability-inclusive policies and action plans in your country**.

1. Flemish Community, French Community, German-speaking Community [↑](#footnote-ref-2)
2. Brussels-Capital Region, Flemish Region, Walloon Region [↑](#footnote-ref-3)
3. <http://unia.be/en/publications-statistics/publications/evaluation-of-federal-anti-discrimination-legislation>. Report available in French and Dutch. [↑](#footnote-ref-4)
4. Agence pour une Vie de Qualité (AViQ), Personne Handicapée Autonomie Recherchée (PHARE), Dienststelle für Personen mit Behinderung (DPB), Vlaams Agentschap voor Personen met een Handicap (VAPH), Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding (VDAB). VDAB provides financial aids and subsidies for reasonable accommodation at work and to enhance employment. VAPH provides aids for personal use and in private life. [↑](#footnote-ref-5)
5. Discrimination includes direct discrimination, indirect discrimination, giving the order to discriminate, intimidation and denial of reasonable accommodation. [↑](#footnote-ref-6)
6. Discrimination includes direct discrimination, indirect discrimination, giving the order to discriminate, intimidation and denial of reasonable accommodation. [↑](#footnote-ref-7)
7. Brussels-Capital Region, Flemish Region, Walloon Region [↑](#footnote-ref-8)
8. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168059aa24>. Available in French only. [↑](#footnote-ref-9)
9. Decree of 25 april 2014 *houdende de persoonsvolgende financiering voor personen met een handicap en tot hervorming van de wijze van financiering van de zorg en de ondersteuning voor personen met een handicap* [↑](#footnote-ref-10)
10. Decree of 17 January 2014 *relatif à l'inclusion de la personne handicapée* [↑](#footnote-ref-11)
11. More information about the demands of sign language interpretation and in what degree they are met is available in the yearly report of the Flemish agency that coordinates demand and supply, the CAB: <http://www.cabvlaanderen.be/doc%5CCAB%20-%20jaarrapport%202015.pdf> (in Dutch only). [↑](#footnote-ref-12)